

BEFORE THE BOARD OF VETERINARY MEDICINE
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.225.401 fees, 24.225.503) NOTICE OF PUBLIC HEARING ON
examination application) PROPOSED AMENDMENT
requirements, 24.225.504)
examination for licensure, 24.225.907)
board-approved training program)
criteria, 24.225.910 certified)
euthanasia technician test criteria,)
and 24.225.921 certified euthanasia)
agency inspection criteria)

TO: All Concerned Persons

1. On April 18, 2011, at 10:30 a.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Veterinary Medicine (board) no later than 5:00 p.m., on April 15, 2011, to advise us of the nature of the accommodation that you need. Please contact Cheryl Brandt, Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdrv@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

<u>24.225.401 FEE SCHEDULE</u>	
(1) remains the same.	
(a) Renewal of license	\$ 65 <u>110</u>
(b) and (c) remain the same.	
(d) Temporary permit	50 <u>75</u>
(2) remains the same.	
(a) Application for examination	450 <u>100</u>
<u>(b) Examination</u>	<u>450</u>
(b) <u>(c)</u> Renewal of certification	65 <u>110</u>
(3) and (3)(a) remain the same.	
(b) Technician renewal	70 <u>110</u>
(c) remains the same.	
(d) Agency renewal	125 <u>195</u>

(e) through (5) remain the same.

AUTH: 37-1-134, 37-18-202, 37-18-603, MCA

IMP: 37-1-134, 37-1-141, 37-1-304, 37-1-305, 37-18-302, 37-18-603, MCA

REASON: Section 37-1-134, MCA, requires all professional and occupational licensing boards to set and maintain fees commensurate with associated costs. The board is amending this rule by raising certain fees to meet the expected costs of a new division computer database, the scanning and electronic storage of all licensing files, and an overall increase in board staff workload. In providing administrative services to the board, the Department of Labor and Industry (department) has determined that unless the licensure fees are increased as proposed, the board will have a negative cash balance and shortage of operating funds in FY 2012. The board estimates that the proposed fee changes will affect approximately 1086 licensees and examinees and result in a \$48,995 increase in annual board revenue.

The board is amending (2)(a) to separate the examination application fee for embryo transfer technicians from the cost of the examination itself. When a candidate fails and retakes the exam, the cost of the examination remains static. The board concluded that the cost to process applications should not be combined with the examination fee, because the application remains open while the candidate pays for and retakes the examination. Currently, the board is not compensated for these application processing costs.

24.225.503 EXAMINATION APPLICATION REQUIREMENTS

(1) Applicants for licensure by examination in the state of Montana shall submit a completed application with the proper fee and supporting documents to the board office. ~~Applicants for the North American Veterinary Licensing Examination (NAVLE) wishing to sit as a Montana candidate shall submit the Montana state licensure application to the board no later than August 1 for the fall NAVLE administration or January 3 for the spring NAVLE administration. Montana NAVLE candidates shall submit the NAVLE application and fee directly to the National Board of Veterinary Medical Examiners.~~

(2) Supporting documents for the Montana state licensure application must include:

(a) and (i) remain the same.

(b) North American Veterinary Licensing Examination (NAVLE) score received directly from the official score reporting agency. NAVLE candidates shall submit the NAVLE application and fee directly to the National Board of Veterinary Medical Examiners (NBVME);

(b) and (c) remain the same, but are renumbered (c) and (d).

(d) (e) the candidate's work history of all employment concurrent as well as and consecutive employment, starting at the date of application and working back to graduation; and

(e) and (2) remain the same, but are renumbered (f) and (3).

(a) pass the NAVLE at or above the designated passing standard established by the national examination entity as approved by the board within 62 months of the application date; and

(b) remains the same.

~~(3)~~ (4) Foreign veterinary school graduates from a school not accredited by the AVMA Council on Education shall either have completed the requirements of the American Veterinary Medical Association's Education Commission for Foreign Veterinary Graduates (ECFVG), as evidenced by a copy of the ECFVG certificate, or must have completed the requirements of the Program for the Assessment of Veterinary Education Equivalence (PAVE), as evidenced by a copy of the PAVE certificate, before an application will be accepted.

(a) For specific information on the requirements of the ECFVG, contact the American Veterinary Medical Association, ECFVG, 1931 North Meacham Road, Suite 100, Schaumburg, IL 60173. For specific information on the requirements of the PAVE, contact the American Association of Veterinary State Boards at ~~4106 Central~~ 380 West 22nd Street, Suite 101, Kansas City, MO 64114 64108.

(4) remains the same but is renumbered (5).

AUTH: 37-1-131, 37-18-202, MCA

IMP: 37-1-131, 37-18-302, MCA

REASON: The board determined it is reasonably necessary to amend (1) and remove the early submission requirement of Montana applications to the board. The National Board of Veterinary Medical Examiners recently started preapproving NAVLE applications and the board is amending this rule to align with their timelines and simplify the overall exam application process.

The board is amending (2) to clarify that the NAVLE scores must be received directly from the official score-reporting agency to ensure that scores are not tampered with in any manner. The board no longer receives any examination applications for candidates sitting for the national examination. It is reasonably necessary to amend this rule to instruct candidates on the proper process for applying for and paying for the NAVLE.

The board is amending (3)(a) to clarify that acceptable examination scores must be obtained within 62 months of the application date. This will help ensure that candidates maintain adequate veterinary skills and knowledge in the period between applying and passing the examination. Candidates who do not take or who take and do not pass the examination within the 62-month period may not be suitable for veterinary licensing. The board is also amending (4)(a) to provide the current address for the American Association of Veterinary State Boards (AAVSB).

24.225.504 EXAMINATION FOR LICENSURE (1) through (1)(b) remain the same.

(2) A candidate may not sit for the NAVLE more than five times and may not sit for the examination at a date that is later than five years after a candidate's initial attempt, unless approved by the board. Each of the final two attempts must be at least one year from the previous attempt. Any previous attempts by a candidate to pass the NAVLE, prior to the fall 2007 administration of the examination, will not count towards the five-attempt limit.

(3) remains the same.

AUTH: 37-1-131, 37-18-202, MCA
IMP: 37-1-131, 37-18-302, MCA

REASON: The board determined it is reasonably necessary to amend this rule to allow the board to grant exceptions for candidates seeking to sit for the NAVLE a sixth time or outside the five-year time limit. The board has been previously unable to consider requests from candidates who did not pass the examination once, and then pursued another graduate degree complementary to veterinary medicine. Other requests have come from candidates who experienced personal hardships such as illness or family events. The board concluded that it is reasonable for the board to have some discretion to grant limited exceptions in certain situations.

24.225.907 BOARD-APPROVED TRAINING PROGRAM CRITERIA (1)
through (1)(b)(ii) remain the same.

- (iii) pharmacology of approved euthanasia and restraint drugs;
- (iv) through (1)(c)(iv) remain the same.
- (v) number of hours; and
- (vi) remains the same.

AUTH: 37-1-131, 37-18-202, 37-18-603, MCA
IMP: 37-18-603, MCA

REASON: The board is amending this rule to clarify that instruction in the pharmacology of restraint drugs is required for approved euthanasia training programs. The board recognizes that euthanasia would be inhumane without the proper use of restraint drugs, and is amending this rule to help ensure their legal and proper use, following appropriate training and examination.

24.225.910 CERTIFIED EUTHANASIA TECHNICIAN TEST CRITERIA
(1) through (1)(c) remain the same.
(d) pharmacology of sodium pentobarbital, xylazine, and acepromazine;
(e) proper dosage and injection techniques of approved euthanasia and restraint drugs;

- (f) through (2) remain the same.
- (3) A passing score on the practical test will be determined by the successful completion of hands-on demonstrations, which indicate that the applicant has been properly trained in procedures, which enable the applicant safely and effectively to restrain and perform humane euthanasia with restraint drugs and sodium pentobarbital. The practical examination will be graded on a pass/fail basis. The practical test shall be administered by the board-approved course provider.
- (4) remains the same.

AUTH: 37-1-131, 37-18-202, 37-18-603, MCA
IMP: 37-18-603, MCA

REASON: The board is amending this rule to require that two drugs commonly used in euthanasia, xylazine and acepromazine, are included in all course tests for

training euthanasia technicians. The board is adding restraint drugs to the required test criteria, because the board recognizes that euthanasia would be inhumane without the proper use of restraint drugs, and is amending this rule to help ensure their legal and proper use, following appropriate training and examination.

24.225.921 CERTIFIED EUTHANASIA AGENCY INSPECTION CRITERIA - NOTIFICATION OF DEFICIENCIES AND CORRECTIONS (1) through (2)(a) remain the same.

(b) verification of the correct security, storage, disposal, and labeling of euthanasia and restraint drugs;

(c) verification of correct drug record-keeping;

(d) and (e) remain the same.

(3) If the inspector determines that a deficiency substantially affects the public health, safety, or welfare, or jeopardizes animals under the control of the CEA, the inspector must immediately inform law enforcement and the board, which may summarily suspend the CEA's certificate pursuant to 2-4-631, MCA, and applicable Montana law. If a less serious deficiency is found after inspection, it must be communicated to the agency and the board in writing. The CEA must correct any such deficiency within 30 days from the date of the inspection. If a second inspection is required, a second inspection fee must be paid by the agency. Failure to sufficiently correct a noted deficiency will be addressed as a disciplinary matter by the screening panel of the board, and the board may notify the DEA.

AUTH: 37-1-131, 37-18-202, 37-18-603, MCA

IMP: 37-18-603, MCA

REASON: The board is adding restraint drugs to the list of inspection criteria, because the board recognizes that euthanasia would be inhumane without the proper use of restraint drugs, and is amending this rule to help ensure their legal and proper use, following appropriate training and examination.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdrv@mt.gov, and must be received no later than 5:00 p.m., April 26, 2011.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.vet.mt.gov. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical

problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Veterinary Medicine, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdrv@mt.gov; or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

BOARD OF VETERINARY MEDICINE
ROBERT SAGER, DVM, PRESIDENT

/s/ DARCEE L. MOE
Darcee L. Moe
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 14, 2011